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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

Globalization in the context of increased incidents of racism, racial discrimination and xenophobia

Working paper submitted by J. Oloka-Onyango in accordance with Sub-Commission decision 1998/104

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Introduction

1. In decision 1998/104, the Sub-Commission decided to entrust Mr. Oloka-Onyango with the preparation, without financial implications, of a working paper on the topic of globalization in the context of the increase in incidents of racism, racial discrimination and xenophobia "... to be considered at its fifty-first session as a contribution to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance". The present paper is submitted in accordance with that request.

2. The issue of globalization has come to the fore as the world approaches the close of the millennium, and without doubt is among the most critical questions to confront humankind in the present epoch. In all probability, the phenomenon of globalization will assume even greater importance in the century to come. From politicians like Brazilian President Henrique Cardoso to media moguls like Ted Turner, to peasant women in the Andean highlands, the term "globalization" means different things both conceptually and in practical terms. Globalization is thus by no means a unilinear phenomenon developing in predictable manner. Nor is globalization a single process, but rather a complex set of developments often operating in contradictory, oppositional or even conflictual fashion. 1/ Unfortunately, much of the discourse about globalization is conducted from an ethnocentric, "world order" perspective that does not take into account the relationships of power and domination essential to an understanding of the phenomenon. 2/

3. At a minimum, globalization can be described as the process in which the globe is rapidly becoming a single, fused economic unit, driven partially by the formation of regional trading blocs, but increasingly across the globe. 3/ The driving force behind this global "free" market, is "... finance capital, which moves rapidly from one part of the world to another", 4/ and is "... made possible by the explosive strides in technology - particularly in communications and information - since the computer chip revolution in the 1960s". 5/ However, the foregoing definition is essentially an economistic one that does not canvass the various, even contradictory ways in which the phenomenon of globalization manifests itself. 6/ Any discussion of globalization must capture and weigh both those aspects of empowerment and

liberation, as well as the dimensions that are destructive and violative of broad notions of human rights, racial equality, non-discrimination and the struggle for Sustainable Human Development (SHD). 7/

4. There is little doubt that even as humankind has made significant progress in breaking down the formal structures of racial discrimination, differentiation, and xenophobia, 8/ these problems remain major social issues in numerous countries around the world. 9/ To borrow the words of Patricia Williams:

> "How precisely does the issue of colour remain so powerfully determinative of everything from life circumstance to manner of death, in a world that is, by and large, officially 'colour blind'? What metaphors mask the hierarchies that make racial domination frequently seem so 'natural', so invisible, indeed so attractive? How does racism continue to evolve, post-slavery and post-equality legislation, across such geographic, temporal and political distance?" 10/

5. Unfortunately, racism continues to be pervasive in various aspects of contemporary human interaction - from the social and political, to the cultural and economic. It is not a peripheral matter. Thus, one may be led to question whether at the close of the millennium it is only "incidents" of racism, racial discrimination and xenophobia that are on the rise, or that the phenomenon as a whole is in resurgence.

6. The definition of "racial discrimination" in the International Convention on the Elimination of All Forms of Racial Discrimination is fairly comprehensive and seeks to cover virtually all the mechanisms and processes of distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin. 11/ In a nutshell, racism is an ideology of racial supremacy and the mechanisms used to keep selected racial groups in subordinated positions. It includes violence and genocide, racial hate messages, disparagement and threats, overt and covert disparate treatment as well as sanitized racist comments. 12/

7. Nevertheless, a continuing issue of importance is the question of the private, as opposed to the public dimensions of racism, even if the Convention attempts to cover both. 13/ The public/private dimensions of the issue assume particular importance in the discussion of the links between racism and globalization, given that the most prominent actors involved in the process of

globalization are private, non-State entities, such as transnational corporations (TNCs). 14/ Together with the other prominent actors in the debate on globalization - the multilateral institutions (MLIs) like the World Bank, the International Monetary Fund (IMF) and the World Trade Organization (WTO) - comprehensive mechanisms of human rights supervision are still largely lacking. 15/ Effectively engaging this issue in an exhaustive manner is an obligation for all States, civil society and the United Nations.

I. GLOBALIZATION TODAY: A BROAD ANALYSIS

8. The dominant emphasis on the economic aspects of globalization without considering its political, social and cultural consequences is in many respects disempowering. 16/ This is because it obscures both the potential and actual destructiveness of the processes of economic globalization, as well as its connection to incidents of racism, racial discrimination and xenophobia. 17/ Take the "global marketplace" as an example. It is trite knowledge that the market is not necessarily a place of equality, with the benefits and rewards equitably shared by all those who participate in it. Similarly, although the main ideological construct of globalization is the promotion of "free" trade, it is fairly evident that its application in reality is very often quite a different matter. 18/

9. Furthermore, despite the almost frenzied liberalization of African economies throughout the 1980s and 1990s, and the application of stringent structural adjustment programmes (SAPs) by MLIs like the World Bank and the IMF, Africa's marginalized position in the world economy appears not to have changed significantly. 19/ In the case of the Asian "tigers", the consequences of financial liberalization have been mixed at best and positively catastrophic at worst. 20/ The freeing-up of trade regimes that was achieved with the North American Free Trade Agreement (NAFTA) has also led to serious social and political problems in parts of the Americas. 21/ In other words, unemployment, homelessness and cuts in social services are not confined to any geographic location. 22/

10. The phenomenon of globalization is not monolithic, nor is it undifferentiated or lacking in complexity. Kitty Calavita lucidly explains some of the complexities involved:

> "The term [globalization] has been used in countless ways, for myriad purposes, with much slippage, and particularly to use it as applies to increased integration of the world economy is misleading; in fact there

is a process of capital contraction and only three principal regions (North America, Europe and East Asia) are benefiting with the rest of the globe (particularly Africa) becoming heavily marginalized." 23/ Calavita prefers to use globalization to refer to the "stepped-up" integration of first world economies, even while many countries of the world are heavily marginalized in the process. However, this analysis must be taken further. The situation is compounded for the poor when deregulation is accompanied by cutbacks in social services and amenities. 24/ In other words, growing inequality between major regional blocks and countries in the world is not the sole outcome of these processes. 25/

11. Globalization is part of an historical process. 26/ Indeed, three distinct epochs or processes of globalization can be clearly discerned from an examination of contemporary human history. 27/ The first era accomplished colonial imperialism. The second is the age of the internationalization of human rights principles and the growth of a global civil society. This second stage has run concurrently with the third - the age of late capitalism in which there is a manifestation of "... multinational hegemony and the dominance of international financial institutions both emerging as suprastatal centres of authority". 28/ All three stages are connected and overlap.

12. The "other side" in the debate about globalization is the phenomenal growth in non-State, relatively autonomous actors, concerned with issues such as trade, consumer protection, the environment and human rights. 29/ This "globalized" civil society has emerged apace with developments in communications and the internationalization of legal principles from the Universal Declaration of Human Rights (UDHR) to the recent conventions on various aspects of the environment. 30/ Global civil society has successfully globalized many issues of contemporary concern to humankind. Indeed, in the recent debate over the Multilateral Agreement on Investment (MAI), the operations of global civil society were crucially significant in the eventual abandonment of the process of negotiating the draft treaty. 31/ One commentator thus described the confrontation between global civil society and the actors behind the MAI as "the clash of globalizations". 32/

13. A significant question nevertheless remains as to whether global civil society is itself free of many of the structural prejudices and elements of discrimination that they blame on others. For example, what is the degree to which civil society actors from the "South" effectively participate in the

formulation of the mainstream global human rights agenda and influence its outcome? 33/ How much attention is being paid to the debilitating consequences of the processes of globalization and the need for a genuinely holistic approach to human rights that does not privilege one category of rights over another? 34/ Is global civil society truly free from the hierarchies of race, gender, ethnicity and class? In short, global civil society must also step back and make an incisive and critical self-examination of the extent to which it also respects the human rights ideals to which it is bound, and seeks to free itself of debilitating social divisions that it might transpose to the international arena. 35/

II. THE NEXUS BETWEEN GLOBALIZATION AND RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA

14. The 1990s have witnessed what can only be described as dramatic global developments with regard to issues concerning racism, racial discrimination and xenophobia. On the one hand, it is the decade of the final collapse of official apartheid in Africa and, on the other, of the genocide in Rwanda. It is both the decade of "multiculturalism" and "world music" and of the phenomenon of "ethnic cleansing". Overall, there is an alarming rise in racism, racial discrimination and xenophobia, and in particular, the incidences of violent and virulent forms of racism and negative ethnic differentiation appear to have gained in strength. In many respects, both the positive and the negative developments in this area can be related to the phenomenon of globalization. 36/

15. The methods by which the structures of racism are perpetuated are varied and include both low and high levels of distribution, ranging from graffiti to violent murder. 37/ In the age of globalization, a particularly disturbing format for the distribution and propagation of racist messages and symbols is the Internet, which has literally exploded onto the global scene in the last several years. The benefits of the Worldwide Web are numerous and fairly obvious in breaking down the barriers of communication, creating global issue-based networks and releasing a flood of information. However, the same mechanism can just as easily be used to pervade violent, sexist, hateful, pornographic and invariably racist websites. Those sites have heightened the use of the medium as a particularly effective, and difficult to manage forum for the transmission of racist and xenophobic messages. According to one

observer speaking of the medium with respect to violent sites: "There's still a little bit of the wild, wild Web aspect of it". 38/ The same applies to racist sites, and indeed, in many respects, the process of policing the same is extremely difficult. As Joel Wallman has observed: "Movements which are small and isolated in their own countries gain solace and often practical assistance from like minded groups abroad". 39/ The Internet has greatly facilitated this global process of the international consolidation of hate.

16. In similar fashion, radio - as in the case of Radio-Télévision Libre des Milles Collines in the Rwandan genocide 40/ - is an even more powerful and pernicious tool. This is particularly the case in societies that suffer high levels of poverty and marginalization, attended by illiteracy and dictatorship where alternative and oppositional politics is highly circumscribed. Unfortunately, sometimes the connection of such societies with the forces of globalization - which may be manifested in the form of international arms transfers (in the case of the Sudan, Angola or the Congo) and SAPs (in relation to Burundi) - is not necessarily positive. 41/ Such societies provide the necessary tools with which to promote armed conflict which often leads to ethnocide, while the forces of globalizations have exacerbated conditions of unemployment, social exclusion and dispossession, the combination of which adds fuel to underlying tensions.

17. The process of globalization may itself carry within it notions of racial superiority and discrimination based on a vision of the world seeking to make uniform, to dominate or to suppress. 42/ Take, for example, the case of intellectual property rights which under the aegis of WTO, are covered by the Trade-Related Aspects of Intellectual Property Rights (TRIPS). In the words of one author, TRIPS is basically designed to benefit, "corporatized, post-modern economies". 43/ Furthermore,

> "By mandating this model, governments in developing countries are faced with the difficult job of destroying, or at least attempting to destroy, native conceptions about life and living and about what constitutes an ordered society. The allocation of material value to goods and the way in which this value is expressed, is grounded firmly in the history and evolution of a people. The internationalization of property rights threatens to undermine, if not totally destroy, the values that indigenous systems ascribe to intellectual property and the manner in which they allocate rights to intellectual goods." 44/

18. In this regard, international legal regimes that give shape and substance to the processes of globalization foster the enhanced exclusion of groups that already exist in a disadvantaged relationship to society at large.

19. Similarly, the growth of global industries like Coca-Cola and Reebok may appear quite innocuous. As the Human Development Report 1998 points out, there are "global elites" and "global middle classes" who follow the same consumption styles, showing preferences for "global brands". 45/ While UNDP points to the dangers to consumer rights entailed by processes of globalization, there is little doubt that the homogenizing influence of a global culture primarily characterized by consumerism adversely affects the status and well-being of minority and indigenous groups. 46/ As Fleur Johns has observed in relation to the Aboriginal peoples of Australia: "Without a positive right to determine their own cultural future, Aboriginal people have no international means of opposing incremental processes of cultural homogenization and cultural expropriation". 47/ Johns expounds upon this point with an examination of the boomerang, arguing that it has been "... transformed into a commodity and image [that] almost completely excludes Aborigines. As a souvenir or logo the boomerang is more emblematic of a culture and economy in which Aboriginal people remain relatively powerless than an image of Aboriginal culture itself". 48/

20. Racism and globalization come together in the environment, with the phenomenon referred to as "global environmental racism" - a manifestation of a policy which has found domestic expression in countries like the United States, but which also has a global dimension. 49/ Within the United States, the problem of "environmental racism" arises when "... decision makers choose disposal sites based on factors other than the equal distribution of the site's benefits and burdens. Often, a location for a site is chosen solely on the basis of which neighbourhood is the least likely to present effective opposition to its selection as a disposal site. Empirical evidence suggests that such neighbourhoods typically are comprised largely of minorities and the poor". 50/ At the international level, the phenomenon of environmental racism is a "... microcosm of the problem of hazardous waste exporting". 51/ There is little doubt that such exports are largely targeted at countries that are poor and mainly located in the southern hemisphere of the globe. 52/

21. Globalization has certainly fostered racism, negative ethnic differentiation and discrimination in many parts of Africa, although some scholars have also pointed to positive aspects of its impact, such as the consolidation of ethnic support groups for persons laid off from their jobs as a consequence of economic liberalization and privatization. 53/ Links have been made between globalization in the form of SAPs and the rise of ethnic conflicts as well as the increase in xenophobia. 54/ SAPs have become the most prevalent modus operandi for the economies of a majority of African countries goaded on by institutions like the IMF and the World Bank. According to Julius Ihonvbere, this has left the poor majority, with "... no option but to find solace, support and security in ethnic or communal associations where the State has woefully failed". 55/ There is consequently a link between the rise in ethnic tensions and many of the policies that lie at the core of globalization. 56/

22. It is trite knowledge that globalization promotes the free movement of goods and capital but controls the movement of certain kinds of people, particularly refugees, asylum seekers and migrant workers. Nowhere is this more apparent than in the arena of immigration and asylum law and policy, especially in Western countries, where "Fortress Europe" 57/ and "Fort Knoxica" are the dominant policy frameworks governing contemporary approaches to the phenomenon of immigration and even to the provision of asylum. 58/ April Gordon points to the "growing fear" of many in Europe and the United States that "... there are too many immigrants, that many of them are racially and culturally unassimilable, and that they take jobs from the native population". 59/

23. A classic example of the Fort Knoxica syndrome can be found in proposition 187 that was passed by California voters in 1994 and was designed to exclude immigrants from education, medical care and social service benefits, and also prohibit public schools from admitting undocumented alien children. 60/ The law also compelled each school to verify the immigration status of any student, parent, or guardian suspected to be out of status. Fortunately, in the case of *United Latin American Citizens v. Wilson* 61/ the court enjoined the enforcement of the law insofar as it limited the right of undocumented alien children from attending public schools. 62/

24. Post cold war Europe has been characterized by the emergence of "... ethnocentrism, virulent nationalism and religious extremism". 63/ The

rise in xenophobia and overtly racist practices has led to a serious diminution in the legal protection of refugees, migrant workers and asylum seekers in many countries. 64/ It goes without saying that those most adversely affected happen to be people of colour. 65/ In a far-reaching analysis of identity, citizenship and exclusion in Europe, Jacqueline Bhabha demonstrates that the situation of non-nationals in the context of consolidating "Europeanization" is unfortunately one of increasing marginalization:

> "Racial harassment and violence persist across EU member States. Discriminatory police behaviour and visible ghettoization characterize European metropolitan cities. Widespread racism in employment and in the provision of public services remains a matter of acute public concern across the EU. Despite formal legal entitlements to an extensive range of State benefits, in practice, Europe's third country nationals do not enjoy the full civil rights to which the 'native' population has access." 66/

25. The last year alone has witnessed the choking, suffocating and shooting deaths of refugees, immigrants and asylum seekers (particularly Africans) in Austria, Belgium, the United States and Germany, with the most recent of these being the death of a Sudanese deportee on a flight from Frankfurt to Cairo. 67/ Those deaths have either been at the hands of police officials or immigration officers, with the most brutal being the death of Guinean immigrant Amadou Diallo shot over 40 times by members of the New York Police Department. 68/

26. The resurgence of racism, racist practices and xenophobia are of particular concern among several of the institutions that are supposed to be central to providing solace and protection to the populace. Most prominent among them are the immigration and police services, many of which over the past few years have manifested attitudes that demonstrate a growing insulation from the changing demographic situation around them. 69/ The recent report of an inquiry into the death of Stephen Lawrence in the United Kingdom provides an illuminating definition of the resilience of a phenomenon first cogently described in the mid-1960s as "institutional racism" - a phenomenon by which the learned commissioners were convinced that the London Metropolitan Police Service (MPS) was plagued. To quote, "the concept of institutional racism which we apply consists of":

"The collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people." 70/

27. Despite the recommendation for a "partnership approach" between the police and minorities to deal with the phenomenon, the response of the MPS Commissioner was decidedly lukewarm. 71/ The problem of institutional racism is by no means confined to the London Police.

28. The belief that globalization leads to an increasingly unified "global" world is rather misleading. Simultaneous to the very processes of opening up, there are parallel movements of closure that manifest the duplicitous nature of the phenomenon. Thus, while the contemporary forces of globalization are increasingly dismantling economic boundaries, physical and geographical borders are in fact becoming even more rigid. Unfortunately, the rigidities are often imposed on the basis of considerations that are ultimately discriminatory in nature. 72/ The simultaneous opening and closure of Europe through political and economic integration may have fostered the spread of xenophobia and ethnicity. 73/ In this way, processes such as economic integration that are at the core of the phenomenon of globalization enhance the marginalization of many non-white Europeans, thereby compounding the conditions of discrimination which they already face.

29. Differentiation within those countries where globalization is believed to be leading to dramatic levels of economic growth and development appears to have become part and parcel of the process. In the final analysis, globalization is essentially benefiting a small, privileged minority, while it is marginalizing a considerable number, often erroneously referred to as the "underclass". 74/ That marginalization - which disproportionately affects people of colour, immigrants and women - explains why even in the midst of globalization processes that have dramatically increased levels of overall (global) wealth, there is also growing immiseration. The differential forces that motivate the phenomenon can also partly explain the increasing incidents of racism, racial discrimination and xenophobia.

30. Although grounded in xenophobia, such fears may reflect certain realities that stem in part from the phenomenon of globalization. In the first instance

it demonstrates that the contraction of the world has made movement much easier. This has resulted in more people of "difference" seeking various opportunities wherever they can be found. At the same time, the fear of immigration is fueled by the differential benefits of globalization. While a handful of TNCs graduate from making super-profits to reaping mega-profits, the gains made are being accrued in a context of "recession, restructuring, and deindustrialization". 75/ The result is the loss of numerous jobs and the stagnation of citizens' incomes. Latent xenophobic feelings are easily translatable into violent and virulent forms of racism directed against those who are viewed as exacerbating the problem.

31. But even within the context of the refugee crisis, dual regimes or systems of support and protection manifest themselves. In the wake of the crisis in Kosovo, some observers have commented on the differential treatment of refugees who are white and those who are not. Miller and Simmons have examined the disparate treatment in the diet and rations, health services, shelter provisions and even water rations between refugees from Kosovo, and those in many African situations. 76/ The situation of African refugee and internally displaced women acutely brings together the relationship between gender, racial discrimination and the loopholes in contemporary international legal standards. 77/ Globalization has relegated black, African women to the bottom of the heap.

III. THE HUMAN RIGHTS CONTEXT

32. Human rights issues are seriously implicated in the preceding discussion in several different respects, from the right to self-determination to the freedoms of association, expression and assembly. 78/ The prohibition of racial discrimination is recognized as one of the most vital norms in international human rights law, enjoying the status of *jus cogens*, i.e. a peremptory norm of international law from which no derogation is acceptable. The term "racial discrimination" essentially means treating people less favourably than others on account solely or mainly of their racial characteristics. Discrimination may both be the result of "identical treatment" in cases where different treatment would be more appropriate, or "different treatment" in situations where persons should be treated the same. 79/ The processes of globalization in several different respects fail to meet this basic standard of compliance with the norm of non-discrimination.

33. There are of course several international human rights instruments that are relevant to the issue under discussion. Among them are the Charter of the United Nations, the UDHR, the two International Covenants on Human Rights and, most importantly, the International Convention on the Elimination of All Forms of Racial Discrimination. Article 4 of the Convention, for example, covers the requirement to criminalize racist hate messages - (that the obvious and growing location for such messages is the Internet is perhaps the most symbolic feature of the globalization process). 80/ Fundamental to any discussion on the issue of racism, racial discrimination and xenophobia is the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. In addition, there is the UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid, and Incitement to War. The need to limit racist hate messages is implicit in basic human rights documents, extending from the Charter to the UDHR. Central to their ethos is the primacy of the right to equality and freedom from racism. Several regional instruments also recognize this primacy, as does the existing domestic legislation of several nations. In this respect, several countries do not uphold the right of free speech in absolutum. Such countries have outlawed certain forms of racist speech.

34. There is also the Convention on the Elimination of All Forms of Discrimination Against Women, which in general outlaws any disparate treatment of women, but article 11 specifically deals with the issue of discrimination in employment. In instances of privatization, downsizing and the other essential devices of globalization, it is most often minority, indigenous and poor women who are most adversely affected. 81/ The Convention on the Rights of the Child has relevance to the issue of child labour, while the various instruments governing the situation of migrant workers, minorities and refugees are also critical in many different respects. Finally, the numerous International Labour Organization (ILO) conventions and recommendations are also pertinent.

35. Globalization has reduced the role of the State and, as a consequence, it has increased the power of particular non-State actors, especially TNCs and MLIs. At the same time, there is a lack of effective mechanisms to enforce the accountability of such non-State actors, even allowing them to evade

domestic laws. 82/ Many of these laws include principles of affirmative action for marginalized or traditionally discriminated against groups, women, minorities and indigenous peoples. Furthermore, because they are private, non-State actors, enforcing certain obligations like respect for codes of conduct, trade union laws, rights of association and expression, etc. may prove difficult. 83/

36. The process of "downward levelling" or the "race to the bottom" in which generally poor countries vie among themselves to attract foreign direct investment by the lowering of social protections, ultimately does not enhance the protection of fundamental human rights. 84/ An aspect of such levelling which is often linked to the processes of globalization is the Economic Protection Zones (EPZs) that are increasingly being established in several countries in the South. Many do not have very well developed regulatory mechanisms. Nevertheless, article 26 of the International Covenant on Civil and Political Rights outlaws discrimination on any ground, both in the public and the private arena. It is thus impermissible to treat people less favourably than others on any grounds, unless there is an overriding justification (as with affirmative action) to do so.

IV. CONCLUSION AND RECOMMENDATIONS FOR ACTION

37. The present document has provided only a very broad outline of a phenomenon that is fairly complex and intricate in its varied manifestations. As a contribution by the Sub-Commission to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it amply demonstrates that the issue of globalization and its impact on increasing incidents of racism, racial discrimination and xenophobia is not ephemeral. It is an issue that requires more comprehensive thought, study and action by the United Nations system, multilateral agencies and human rights organizations.

38. The Committee on the Elimination of Racial Discrimination (CERD) needs to consider the various aspects of the phenomenon of globalization raised in this paper, in its own examination of the matter. In particular, the Committee should encourage States parties to the Convention to highlight the different ways in which globalization has fostered increasing incidents of racism, racial discrimination and xenophobia, and the efforts which they have taken to address these developments. The Committee also needs to examine ways in which the various international human rights instruments can be better applied to

the non-State actors identified as having a critical role in the process of globalization, and whose activities may directly or indirectly foster increasing incidents of racism, racial discrimination and xenophobia.

39. It is necessary to point out that State agencies such as the police and immigration officers - who are reacting to the diverse manifestations of globalization such as increased immigration - have a clear role and obligation under the various international instruments. In particular, they must ensure that they execute their functions in a non-discriminatory, non-racist and manifestly fair fashion. CERD needs to encourage countries that have experienced particularly acute problems in this regard to review the modes and methods of recruitment, to institute systems of training that are racially sensitive, and to encourage the evolution of police and immigration forces that are more inclusive and diverse.

40. In light of resolution 1999/59 of the Commission on Human Rights, in which the Commission requested the Sub-Commission to undertake a study on the issue of globalization and its impact on the full enjoyment of all human rights for the consideration of the Commission at its fifty-seventh session, the Sub-Commission should cooperate more closely with CERD in making a much more comprehensive examination of the varied impacts of globalization on racism, racial discrimination and xenophobia.

Notes

1/ See Anthony Giddens, "Runaway World", The 1999 British Broadcasting Corporation (BBC) Reith Lectures, located at: http://news.bbc.co.uk (accessed on 11 April 1999), p. 1.

2/ See Dani Wadada Nabudere, "Globalization, the African Post-colonial State, Post-traditionalism and the New World Order" (unpublished paper on file with the author, 1998).

3/ To borrow the colourful words of Upendra Baxi:

> "The space for plurality shrinks to a point where the whole world becomes an endless chain of shopping arcades or chains of department stores, where all of us become potential Gremlins, lustfully mutated micro-organisms, in pursuit of instant, technologically mediated pleasures, stranger to the very idea of joy. The vision of global threatens to take away local spaces. 'Think globally, act locally' is a maxim confiscated of its meaning in an era when the 'local' becomes the ghetto of the 'global'. One world imperialism is in the making of globalization."

Upendra Baxi, Inhuman Wrongs and Human Rights, 1994, p. 45.

4/ Devan Pillay, "Globalisation, Marginalization and the Retreat of the State in Africa: The Role of Civil Society in the Pursuit of Democratic Governance, Socio-Economic Development and Regional Integration", ISTR Report, publication of the International Society for Third-Sector Research, December 1997, p. 4.

5/ Ibid.

6/ See, Giddens, op.cit., note 1, p. 2.

7/ cf. Rodolfo Stavenhagen "Globalization and Exclusion", in Globalization and Discrimination, International Movement Against All Forms of Discrimination and Racism (IMADR), ed., 1998.

8/ It is important not to confuse or collapse the concepts of "race" or "racism" and "ethnicity". As Allen and Eade point out, racism and nationalism have particular qualities that make them different from other kinds of ethnicity. Furthermore, these qualities, "... also make them enormously important in modern states, and perhaps even more important as the sovereignty of states is being eroded by processes associated with 'globalization'". See, Tim Allen and John Eade, "Anthropological Approaches to Ethnicity and Conflict in Europe and Beyond", International Journal on Minority and Group Rights, vol. 4, 1996/1997, p. 239.

9/ See Rita Jalali and Seymour Martin Lipset, "Racial and Ethnic Conflicts: A Global Perspective", in New Tribalisms: The Resurgence of Race and Ethnicity, Michael W. Hughey (ed.), 1998, pp. 317-343.

10/ Patricia J. Williams, Seeing a Colour-Blind Future: The Paradox of Race, 1997, p. 13.

11/ Some commentators have criticized the Convention definition as not broad enough. Hernández-Truyol has critiqued the definition because it "... effectively institutionalizes the United States construct for the analysis of race: binary white/black paradigm". She argues that this model is "... under inclusive, incoherent, and misdirected by virtue of its conflation and confusion of interdependent and indivisible but holistic and nonatomized identities". See Berta Esperanza Hernández-Truyol, "Race, Sex and Human Rights: A Critical Global Perspective", Proceedings, American Society of International Law, vol. 91, 1997, p. 413. Lisa Crooms has also argued that the conceptualization of race in the Convention assumes that maleness "... represents a point of gender neutrality and the centrality of principles of formal equality to (United States) anti-discrimination law". Furthermore, that "Race is conceptualized in phallocentric terms that cannot handle, as race claims, those women's human rights violations for which there are no parallel violations for men". See Lisa Crooms, "What Do Women's Human Rights Have to Do with the Race Convention?", Howard Law Journal, vol. 40, 1997, p. 620.

12/ Mari J. Matsuda, "Public Response to Racist Speech: Considering the Victim's Story", in Words that Wound: Critical Race Theory, Assaultive Speech and the First Amendment, Mari J. Matsuda et al. (eds.), 1993. The

ideology is reinforced by "gutter racism, parlour racism, corporate racism and government racism ... with violence as a necessary and inevitable part of the structure of racism". Ibid., p. 24.

13/ Article 2 (d) of the Convention stipulates that States parties have a duty to bring to an end "... racial discrimination by any persons, group or organization", which provides the obvious legal foundation for action against private actors. The implementation of this provision is of course not without difficulty.

14/ According to Michael Posner in a discussion on the place of business and human rights, "... there are also big international companies, many of them based in the United States and the West, that are in the middle of this discussion. The question is what affirmative obligations or responsibilities go with being an economic actor in this setting? We should discuss how to enforce rights or standards - which are fairly clear on issues like non-discrimination, slave labour, or even child labour. There is an emerging consensus that these are rights and standards, but when local governments are weak or unwilling to enforce, what is the affirmative obligation of companies?", Harvard Human Rights Program, Business and Human Rights, 1997, p. 18.

15/ Dirk Messner, "Towards a New Bretton Woods: Globalisation and the Challenges Facing Politics", Development and Cooperation, 1999, p. 4.

16/ See David Slater, "Contesting Occidental Visions of the Global: The geopolitics of theory and North-South Relations", Mas Alla Del Derecho - Beyond Law, Instituto Latinamericano de Servicios Legales Alternativos, No. 4, 1994, p. 97.

17/ Tade Aina, Globalization and Social Policy in Africa: Issues and Research Directions, 1997, pp. 8-10 and 18-20.

18/ See Marc W. Brown, "The Effect of Free Trade, Privatization and Democracy on the Human Rights Conditions for Minorities in Eastern Europe: A Case Study of the Gypsies in the Czech Republic and Hungary", Buffalo Human Rights Law Review, vol. 4, 1998.

19/ See A. Hoogvelt, Globalisation and the Postcolonial World, 1997.

20/ Khawar Mumtaz, "Bringing Together the Rights to Livelihoods and Reproductive Health", Development, Vol. 42, 1999, pp. 15-17 (arguing that the economic globalization phenomena has been disadvantageous for South Asia as a whole, "... and have had a particularly negative impact on women").

21/ John Dent, "Economic Liberalization, the NAFTA and Human Rights: Illustrations from Canada, Mexico and Chile", Mas Alla Del Derecho - Beyond Law, No. 11, 1994. Cuninghame and Corona have linked the need for "autonomy from NAFTA" to the Chiapas rebellion in Mexico in January 1994. See Patrick Cuninghame and Carolina Ballestros Corona, "A Rainbow at Midnig: Zapatistas and Autonomy" Capital and Class, vol. 66, 1998, p. 19.

22/ Pierre Sané, "Fundamental Freedoms", in Human Rights: The New Consensus, Richard Reoch (ed.), 1994, p. 41.

23/ Kitty Calavita, "Immigration Law and Marginalization in a Global Economy: Notes from Spain", Law and Society Review, vol. 32, 1998, p.537.

24/ See Vivien Schmidt, "The New World Order, Incorporated: The Rise of Business and the Decline of the Nation-state", Daedalus, vol. 124, 1995.

25/ The UNDP's most recent report recalls that, "In 1960 the 20 per cent of the world's people who live in the richest countries had 30 times the income of the poorest 20 per cent ... by 1995, 82 times as much income.", UNDP, Human Development Report, 1998, p. 29.

26/ As S. Hall has pointed out: "The globalizing process ... is located within a much longer history; we suffer increasingly from a process of historical amnesia in which we think that just because we are thinking about an idea it has only just started.", S. Hall, "The Local and the Global: Globalization and Ethnicity", in Culture, Globalization and the World System, A.D. King (ed.), 1991, p. 20.

27/ For a critical analysis, see, B.S. Chimni, "Marxism and International Law: A Contemporary Analysis", Economic and Political Weekly, 6 February 1999, p. 337, esp. 338-339.

28/ Baxi, op.cit., note 3, p. 39.

29/ Mustapha Kamal Pasha and David L. Blaney, "Elusive Paradise: The Promise and Peril of Global Civil Society", Alternatives, vol. 23, 1998, p. 422.

30/ See Richard H. Stanley (opening remarks), "The United Nations and Civil Society: The Role of NGOs", 1999, p. 8.

31/ See J. Oloka-Onyango and Deepika Udagama, "Human Rights as the Primary Objective of International Trade, Investment and Finance Policy and Practice", working paper submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1999/11).

32/ Stephen Kobrin, "The MAI and the Clash of Globalizations", Foreign Policy, Fall 1998, pp. 97-109.

33/ For an illuminating examination of this issue, see Makau Mutua, "The Ideology of Human Rights", Virginia Journal of International Law, vol. 36, 1996, pp. 607-626.

34/ Khawar Mumtaz has for example observed that at the World Conference on Population and Development held in Cairo in 1995, women from the South "... found inadequate reciprocal sentiment for their issues of sheer survival in the face of rising globalization, for the right of quality of life and sustainable livelihoods. They found that the issue of globalization was not receiving matching support and attention that the women of the South were willing to give to the women of the North.", Mumtaz, op.cit. note 20, p. 17.

35/ Pasha and Blaney, op.cit. note 29.

36/ Of course, the reasons for the rise in incidents of this nature are multifarious - from the social to the psychological. For an example of an analysis that looks at the latter, see, J. Anderson Thomson et al., "The Psychology of Western European neo-racism", International Journal on Group Rights, vol. 3, 1995.

37/ The shocking decapitation of James Byrd Jr. who was tied to the fender of a car and dragged for two miles is one such recent example of the latter. See, "Painful killing described as trial nears its end", New York Times, 23 February 1999, p. A16, col. 2.

38/ See Reuters, "Victims call for end of Web violence", reported in New Vision, 26 May 1999, p. 20.

39/ Joel Wallman, "Brotherhoods of Race and Nation: An HFG Conference", The HFG Review, Harry Frank Guggenheim Foundation, Fall 1996, vol. 1, No. 1.

40/ See Jamie Frederic Metzl, "Rwandan Genocide and the International Law of Radio Jamming", American Journal of International Law, vol. 91, 1997, p. 629.

41/ See Léonce Ndikumana, "Institutional Failure and Ethnic Conflicts in Burundi", African Studies Review, 1998, p. 43 (arguing that in the case of Burundi donor funds keep flowing into the country even when there is evidence that State institutions are being used as machines of oppression and repression against the population).

42/ See Victor Kaisiepo, "The Rights of Indigenous Peoples in a Rapidly Changing World", Indigenous Affairs, vol. 3, 1998.

43/ Ruth L. Gana, "Has Creativity died in the Third World? Some Implications of the Internationalization of Intellectual Property", Denver Journal of International Law and Policy, vol. 24, 1995, p. 143

44/ Ibid.

45/ UNDP, op. cit. note 25, p. 6.

46/ Giddens, op. cit. note 1, p. 5.

47/ See, Fleur Johns, "Portrait of the Artist as a White Man: The International Law of Human Rights and Aboriginal Culture", Australian Yearbook of International Law 1995, and Claudio Lomnitz, "Decadence in Times of Globalization", Cultural Anthropology, vol. 9, esp. p. 262 (arguing that "multiculturalism" in so-called first world countries has succeeded in further subordinating the cultures of so-called third world countries).

48/ Ibid.

49/ Dent, op. cit. note 21, pp. 90-92.

50/ Hugh J. Marbury, "Hazardous Waste Exportation: The Global Manifestation of Environmental Racism", Vanderbilt Journal of Transnational Law, vol. 28, 1995, p. 279.

51/ Ibid., p. 291.

52/ As Prof. Giddens has observed: "Some transnational companies sell goods that are controlled or banned in the industrial countries - poor quality medical drugs, destructive pesticides or high tar and nicotine content cigarettes. As one writer put it recently, rather than a global village, this is more like global pillage." See Giddens, op. cit. note 1, p. 5. See also Kasiespo, op. cit. note 42, p. 13.

53/ See, Eghosa Osaghae, *Structural Adjustment and Ethnicity in Nigeria*, Nordiska Afrikainstitutet, Research Report No. 98.

54/ Ibid., pp. 44-54.

55/ Julius Ihonvbere, "The 'irrelevant' state, ethnicity and the quest for nationhood in Africa", Ethnic and Racial Studies, vol. 17, 1994, p. 51.

56/ See, J. Bayo Adekanye, "Structural Adjustment, Democratization and Rising Ethnic Tensions in Africa", Development & Change, vol. 26, 1995.

57/ In the 1980s and 1990s, both European countries and the United States adopted more restrictive immigration and asylum policies. See, David O'Keefe, "The Emergence of a European Immigration Policy", in European Law Review, vol. 20, 1995.

58/ See, Bill Frelick, "Refugee Rights: The New Frontier of Human Rights Protection", Buffalo Human Rights Review, vol. 4, 1998, pp. 268-271 (describing the xenophobic response of European States which led to the creation of "safe havens" in Bosnia).

59/ April Gordon, "The New Diaspora: African Immigration to the United States", Journal of Third World Studies, vol. 15, 1998, p. 97.

60/ See, Sandra L. Jamison, "Proposition 187: The United States May Be Jeopardizing its International Treaty Obligations", Denver Journal of International Law and Policy, vol. 24, 1995.

61/ C.D. Cal. 1995.

62/ On the negative side, however, the court did not invalidate provisions in the law that prevented undocumented aliens from receiving public, post-secondary education as well as certain welfare and medical benefits.

63/ Theo van Boven, "Balances and Challenges of the International Protection of Human Rights: 50 Years Universal Declaration of Human Rights" in IMADR, op. cit. note 7, p. 107.

64/ Ibid., pp. 358-359. See also, Exclusion and Inclusion of Refugees in Contemporary Europe, Philip Muus, (ed.), 1997.

65/ See, Jalali and Lipset, op. cit. note 9, p. 323 (noting that in Germany attacks of a racial nature - particularly directed against foreign workers and their dependants - occur "every day", with over 600 such attacks being reported in 1989 alone).

66/ Jacqueline Bhabha, "'Get Back to Where You Once Belonged': Identity, Citizenship, and Exclusion in Europe", Human Rights Quarterly, vol. 20, 1998, p. 602.

67/ Reuters, "Sudan deportee dies on plane", *Sunday Monitor*, 30 May 1999, p. 7. It is reported that the police used force to secure him to his seat and put a motorcycle helmet on his head.

68/ Ronald Kayanja, "Fighting Racism? You Need Money", *Sunday Monitor*, 14 March 1999, p. 29.

69/ See, Richard Latter, "Policing the Rising Tide of Violence in Europe", International Journal on Group Rights, vol. 2, 1994, pp. 191-192.

70/ The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, CM 4262-1 (February 1999), accessed on 18 April 1999 at: http://www.official-documents.co.uk/document/cm42/4262.html The report went on to state that: "It [institutional racism] persists because of the failure of the organization openly and adequately to recognize and address its existence and causes by policy, example and leadership. Without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organization. It is a corrosive disease."

71/ Alan Travis, "Met chief balks at race laws", The Guardian, 11 March 1999, p. 1.

72/ Cris Shore, "Ethnicity, Xenophobia and the Boundaries of Europe", International Journal on Minority and Group Rights, vol. 4 (1996/97).

73/ Ibid., p. 259.

74/ See, Williams, op. cit. note 10, pp. 32-33 (describing the term "underclass" as a euphemism for blackness).

75/ Ibid., p. 97.

76/ Christian Miller and Ann Simmons, "Chicken for Kosovo refugees, no water for the Africans", The Monitor, 26 May 1999, p. 14 (originally printed in the Los Angeles Times as "Relief camps for African, Kosovars worlds apart" on 24 May 1999).

77/ See, J. Oloka-Onyango, "The Plight of the Larger Half: Human Rights, Gender Violence and the Legal Status of Refugee and Internally Displaced Women", Denver Journal of International Law and Policy, vol. 24, 1996.

78/ See, Florence Butegwa and Taaka Awori, "Globalization and its Impact on Economic and Social Rights in Africa" (paper on file with author, 1998).

79/ See, International Commission of Jurists, Position Paper for the World Summit for Social Development, 1995.

80/ See, further, International Council on Human Rights, Taking Duties Seriously: Individual Duties in International Human Rights Law, 1999.

81/ See, Angela Keller-Herzog, Globalisation and Gender: Development Perspectives and Interventions, December 1996.

82/ See, Schmidt, op. cit. note 24.

83/ For an examination of the difficulties of enforcing respect for these standards in the context of the debate over breast-milk substitutes, see, Leslie Wirpsa, "Is Breastfeeding a Natural Right? The Impact of Free Trade on the Unethical Marketing of Breastmilk Substitutes", Más Allá del Derecho - Beyond Law, No. 9, 1994.

84/ See, Jeremy Brecher and Tim Costello, Global Village or Global Pillage: Economic Reconstruction from the Bottom Up, 1995.